

Federal Agency Hazardous Waste Compliance Docket ("docket")

BACKGROUND:	The Environmental Protection Agency (EPA) is required to establish a Federal Agency Hazardous Waste Compliance Docket ("docket") under Sect. 120(c) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA). The docket is used to identify Federal facilities that must be evaluated to determine if they pose a risk to public health and the environment and to provide a mechanism to make this information available to the public. EPA published the first docket in the <i>Federal Register</i> in 1988 [53 FR 4280] and must publish an updated list of additions/changes/deletions to the docket every six months as information changes or new facilities are identified. For each listed facility the responsible Federal agency must complete a preliminary assessment (PA), and, if warranted, a site inspection (SI), to determine if CERCLA response actions are necessary. This Information Brief provides an overview of the listing process, the implications of listing, and the relationship of the docket to the National Priorities List (NPL).
STATUTES:	Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA); Superfund Amendments and Reauthorization Act (SARA); Resource Conservation and Recovery Act (RCRA); and Hazardous and Solid Waste Amendments (HSWA).
REGULATIONS:	[42 U.S.C. 9620(c)] CERCLA Sect. 120(c), as amended by SARA; [42 U.S.C. 9603] CERCLA Sect. 103; [42 U.S.C. 6925; 42 U.S.C. 6930; 42 U.S.C. 6937] RCRA Sects. 3005, 3010, and 3016, respectively.
REFERENCES:	"Judgement Affecting Certain CERCLA Docket Facilities," EH-22 Memorandum, September 16, 1991; "Federal Agency Hazardous Waste Compliance Docket Update," EH-22 Memorandum, September 12, 1991; "CERCLA Federal Agency Hazardous Waste Compliance Docket and Revised Hazard Ranking System," EH-231 Memorandum, July 25, 1991.

For docket listing, how is a Federal facility defined?

The term *Federal facility* is based on the RCRA definition of *facility* (47 FR 32288-9, 1982; 50 FR 28712, 1985). The definition is property-based and encompasses all contiguous land owned by a department, agency, or instrumentality of the United States. It includes all individual sites or units on the property, including government-owned, contractor-operated sites. EPA's use of the property-based definition is an attempt to reconcile the definition of facility in RCRA with the CERCLA definition because information from both programs is contained in the docket.

How do facilities get listed on the docket?

The docket is developed from information submitted by Federal agencies under the following authorities:

- ❑ **RCRA Sect. 3005** establishes a permitting system for hazardous waste treatment, storage, and disposal (TSD) facilities and requires the submission of certain information as part of the permit application (interim status/permitting authority).
- ❑ **RCRA Sect. 3010** requires hazardous waste generators, transporters, and TSD facility owner/operators to notify EPA of their hazardous waste activities (notification of hazardous waste activity).
- ❑ **RCRA Sect. 3016** requires Federal facilities to submit an inventory of hazardous waste sites they own or

operate, or have owned and operated in the past (biennial inventory of Federal agency hazardous waste activities).

- ❑ **CERCLA Sect. 103(a)** requires owners or operators of vessels or facilities to notify the National Response Center (NRC) of a release of a reportable quantity (RQ) of a hazardous substance (notification of a release or potential release).

Information submitted under the above requirements is entered into several databases. EPA extracts the information from the databases to compile a proposed update to the docket that is provided to agencies, such as DOE. DOE's review of the proposed draft docket update is coordinated through the Office of Environmental Compliance (EH-22) to appropriate Program and Field Offices for comment. Formal comments are transmitted from EH-1 to EPA Headquarters. As of the fifth docket update on December 12, 1991 (56 FR 64898), a total of 75 DOE facilities are listed.

Federal facilities are listed by agency, facility name, facility address, city, state, zip code, the statutory provision(s) under which the facility was reported to EPA, and the EPA region where the facility is located. Docket repositories are located in the EPA Regional Office of the region where the facility is located. A complete national index is maintained at the Office of Federal Facilities Enforcement at EPA Headquarters in Washington, D.C. Copies of the docket list and related information may be obtained by calling the docket hotline at 1-800-548-1016.

Does the docket serve as the NPL for Federal facilities?

No, but the docket does identify those Federal facilities that must be evaluated for possible listing on the NPL.

What is the implication of the docket listing for Federal facilities?

The docket identifies those facilities that pose or have the potential of posing a threat to human health and the environment. Once a facility is listed on the docket the responsible agency must complete a PA on the facility within 18 months of listing to determine if a release has occurred, or if a significant threat of a release is present. The PA includes a review of available information and a reconnaissance visit to the site. If the PA indicates that further investigation is necessary, the responsible agency must conduct an SI. An SI usually involves collecting samples and gathering sufficient information to identify waste handling practices at the site, describe known contaminants and the surrounding area, and pinpoint potential human and environmental targets of contamination (55 *FR* 8844).

Following completion of the PA or PA/SI, EPA uses the Hazard Ranking System (HRS) to score the facility and recommends either (1) a determination that there is "no further remedial action planned" (NFRAP) at this time, or (2) further investigation and possible proposal for the NPL. The HRS is a screening mechanism that EPA uses to determine whether or not the Federal facility should be placed on the NPL. If the HRS score is below 28.50 (out of 100), the facility remains on the docket but **will not** be proposed for the NPL. If the rating is 28.50 or greater, EPA will propose that the facility be listed on the NPL. The NPL identifies sites (or Federal facilities) that are EPA priorities for long-term evaluation and remedial response, and is a crucial part of EPA's program to address the identification of actual and potential releases. Inclusion on the NPL requires that the responsible agency conduct a detailed investigation, i.e., remedial investigation/feasibility study (RI/FS), to characterize the site and determine appropriate remedial alternatives and objectives under the provisions of CERCLA.

In most cases, why is the entire facility listed on the NPL if only one or a few of the sites at the facility meet the criteria for listing?

Usually, when one hazardous substance(s) release is found at a facility there are others. Therefore, it is necessary that a consistent approach to assessing hazardous substance releases be used at the facility as a whole. Accordingly, most Federal facilities have been listed on the NPL in their entirety so that interrelationships and interactions among multiple releases and the contamination of various environmental media can be addressed comprehensively. Further, before any remediation is undertaken at a Federal facility, execution of an interagency agreement (IAG), or Federal facilities agreement (FFA), with EPA, the Federal facility, and, when appropriate, the state(s), is mandated under CERCLA Sect. 120. (FFAs encompass the CERCLA-required IAGs.) The FFA provides an opportunity for those involved to determine the approach to the remediation of all contaminated sites within the facility

and to agree on their respective responsibilities under the appropriate statutes. For example, some sites may undergo remediation under CERCLA and others under RCRA corrective action.

How will the amended or revised HRS affect future docket listing?

EPA published the revised HRS in the *FR* on December 14, 1990 (55 *FR* 51532), effective March 14, 1991. The revised HRS retains the same cutoff score as the original HRS, but incorporates SARA requirements as well as other improvements identified by EPA. The evaluation criteria and methodologies in the revised HRS must be incorporated into the PAs prepared for Federal facilities. However, some PA/SI packages were awaiting scoring completion prior to the effective date of the revised HRS. DOE Field Organizations will have to coordinate with appropriate EPA Regional Offices on whether pending PA/SI packages will require resubmission or addenda to reflect changes in the revised HRS.

Are any Federal facilities excluded from the docket?

Yes. EPA does not include four categories of facilities. First, privately owned facilities formerly owned by a Federal agency are not included. However, facilities now owned by another Federal agency will remain on the docket with the responsibility resting with the current owner. Second, facilities operated but not currently owned by a Federal agency are not listed. EPA has announced, however, that in February 1992, it will expand its review of facilities to include sites that are privately owned but operated by the Federal government. Third, small quantity generators (SQG) reported under RCRA that have never produced more than 1000 kg/month of hazardous waste and, fourth, facilities that are solely transporters, are not included.

Summary

Federal facilities that manage hazardous waste or have potential hazardous waste or hazardous substance problems are listed on the docket. Listing triggers the requirement for a PA within 18 months (of listing) to determine (1) if a release has occurred or if a significant threat of a release is present and (2) whether or not the facility should be evaluated for inclusion on the NPL. The docket represents those Federal facilities that **may** be contaminated with hazardous substances. Some facilities may have been reported under RCRA Sect. 3010 simply because they manage or have managed RCRA hazardous waste and **not** necessarily because contamination has occurred.

Questions of policy or questions requiring policy decisions will not be dealt with in EH-231 Information Briefs unless that policy has already been established through appropriate documentation. Please refer any questions concerning the subject material covered in this Information Brief to Kathleen Schmidt, RCRA/CERCLA Division, EH-231, FTS 896-5982.